IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

FRIDAY, THE 1ST JUNE 2007 / 11TH JYAISHTA 1929

WP(C).No. 16812 of 2007(T)

PETITIONER:

AYSHA MOIDUTTY, WIFE OF MOIDUTTY, RESIDING AT
MATTUMMATHODI HOUSE, HOSPITAL ROAD,
PERINTHALMANNA, MALAPPURAM DISTRICT.

BY ADV. SRI.K.M.SATHYANATHA MENON
SMT.S.SMITHA (PARAKKAL)

RESPONDENTS:

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1. ASSISTANT EXECUTIVE ENGINEER,
P.W.D. NATIONAL HIGHWAY SUB DIVISION,
PERINTHALMANNA, MALAPPURAM DISTRICT.

2. THE DEPUTY COLLECTOR (LR), MALAPPURAM.

3. THE SURVEYOR, CIVIL STATION, MALAPPURAM.

4. THE TAHSILDAR, PERINTHALMANNA TALUK OFFICE,
PERINTHALMANNA, MALAPPURAM DISTRICT.

5. THE DISTRICT COLLECTOR, MALAPPURAM.

BY GOVERNMENT PLEADER SRI. I.V. PRAMOD.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 01/06 /2007 , THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S. SIRI JAGAN, J.

W.P.(C)NO.16812 OF 2007

DATED THIS THE 1st DAY OF JUNE, 2007

JUDGMENT

The petitioner challenges Ext.P3 notice directing the petitioner to demolish the building, which he has constructed encroaching into the National Highway. The petitioner submits that the building has been in existence for the last 75 years and there is no encroachment into the Highway. The petitioner submits that before issuing Ext.P3 order, the petitioner has not been given any notice or hearing as prescribed under the Land Conservancy Act and Rules. According to the petitioner this amounts to violation of principles of natural justice.

2. The learned Government pleader submits that the petitioner can be given a notice with opportunity of hearing and production of documents.

3. In the above circumstances, I direct that further proceedings pursuant to Ext.P3 shall be kept in abeyance till the appropriate authority among the respondents passes a speaking order after a notice to the petitioner with opportunity of hearing and production of documents.

The writ petition is disposed of as above.

Sd/

S. SIRI JAGAN, JUDGE

Acd